IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 28TH FEBRUARY 2007 / 9TH PHALGUNA 1928

Crl.MC.No. 442 of 2007()

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AGAINST THE ORDER DATED 19/12/2006 IN ORDER IN
CMP.4827/2006 of JUDL.MAGISTRATE OF FIRST CLASS-I, THAMARASSERY
CRIME NO.26/06 OF KODUVALLY POLICE STATION

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PETITIONER: ACCUSED:

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P. JABBAR, S/O. MUHAMMED,
PULIYEDATH HOUSE, PULICKAL AMSOM, DESOM,
MALAPPURAM DISTRICT.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: COMPLAINANT & STATE:

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1. S.I. OF POLICE,
KODUVALLY POLICE STATION.

2. STATE, REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J**

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Crl.M.C.No.442 of 2007

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Dated this the 28th day of February 2007

**O R D E R**

The petitioner claims to be the registered owner of a Santro car bearing Reg.No.TN-01 S 6574. The Koduvally police seized the same in connection with Crime No.26/06. That crime was registered on 27/01/2006 interalia under Section 380 I.P.C. The accused was arrested on 02/11/2006 and the vehicle was seized by the police allegedly from the possession of the accused. According to the police, the vehicle was used by the accused for the commission of the crime. The accused persons travelled in the vehicle in question to commit the crime. The vehicle continued to be in the possession of the accused even on 02/11/2006 when it was seized. In these circumstances, the police raised objection against the prayer for release of the vehicle to the petitioner. The petitioner claims to be the registered owner but he did not produce the original document before the learned Magistrate. The police reported to the learned Magistrate that the vehicle is required in connection with two other crimes, that is crime Nos.457/06 and 525/06 of

Sulthan Bathery police station. The petitioner, thereafter, applied for release of the vehicle in those two crimes. By Annexures-III and IV, the petitioner was informed that there is no seizure of the vehicle in those two crimes. The only question then is whether the petitioner is entitled for release of the vehicle which is seized in Crime No.26/06. The learned Magistrate had dismissed the application interalia on the ground that the original documents have not been produced. The learned counsel for the petitioner submits that the petitioner is now willing to produce the documents before the learned Magistrate.

2. I am, in these circumstances, satisfied that this petition can be dismissed with the observation that the petitioner shall be at liberty to move the learned Magistrate again for release of the vehicle to him. In such petition, he shall produce all the original documents which would show that he is the person entitled to possession of the vehicle. Against such application, the prosecution shall be entitled to raise all objections including the objection that the petitioner is not the real owner and is only a name lender for the accused persons.

With the above observations, this Criminal Miscellaneous Case is dismissed.

**(R.BASANT, JUDGE)**

jsr

**R.BASANT, J**

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006